IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

CRP.No. 947 of 2006

LAR.762/1988 of I ADDL.SUB COURT,ERNAKULAM

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REVN. PETITIONER: PETITIONER

DEVELOPMENT COMMISSIONER,
COCHIN EXPORT PROCESSING ZONE,
(NOW CALLED COCHIN SPECIAL ECONOMIC ZONE),
KAKKANAD, KOCHI-682 037.

BY ADV. SRI.MOHAN C.MENON

RESPONDENTS:

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1. KURIAN, S/O.GEORGE OTHARA,
KALAPURAKKAL HOUSE, VALAMPOOR,
MAZHUVANNOOR P.O., ERNAKULAM DISTRICT,
(REP. BY SRI.K.R.GANESH, ADVOCATE, RAVIPURAM,
KOCHI-682 016, ERNAKULAM).

2. STATE OF KERALA,
REP. BY THE DISTRICT COLLECTOR,
ERNAKULAM.

BY ADV. SRI.K.R.GANESH
GOVERNMENT PLEADER SRI.V.T.K.MOHANAN

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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C.R.P.NO.947 OF 2006

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Dated this the 23th day of February 2007

ORDER

The CRP is filed by the Cochin Export Processing Zone represented by its Development Commissioner seeking for an order setting aside the order impugned passed by the 1st Additional Sub Court, Ernakulam in E.P.No.706/03 in LAR 762/88 and to remit the matter back to the execution court reopening the execution petition for de novo disposal on merits.

2. It is the case of the petitioner that they were the requisitioning authority and as such were made parties in the LAR pursuant to the order in LAA 258/97but that the decree holder filed execution petition without impleading them showing incorrect and exorbitant amount as being due under the decree by a wrong calculation and that without adjudging the correct amount due to the decree holder the execution court has closed the execution petition rendering it impossible for the petitioner to raise objections to the correctness of the amount due to the decree holder. The impugned order is a cryptic order which reads as follows:

> "Rs.1,05,718/- deposited by Garnishee. Deposit recorded. E.P. closed."

3. It is not stated anywhere as to whether the said amount in full will be due to the decree holder or not. No adjudication is seen made as regards the amount to which the decree holder will be entitled.

4. In the circumstances, it is only proper that the petitioner is afforded an opportunity to contest the correctness of the amount claimed in the E.P. by the respondent decree holder and for the purpose execution petition 706/03 in LAR 762/88 closed by the execution court is reopened setting aside the order impugned.

5. In the result, I set aside the impugned order and remit the matter back to the execution court affording opportunity to the petitioner to contest the correctness of the amount claimed by the respondents in the execution petition. Appropriate notice shall be issued to the respondents/decree holders by the execution court when the matter comes up before the execution court for consideration.

This C.R.P. is disposed of as aforesaid.

K.P.BALACHANDRAN, JUDGE

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